

June 12, 1997

OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON

700 Central Building, 810 Third Avenue
Seattle, Washington 98104
Telephone (206) 296-4660
Facsimile (206) 296-1654

**DECISION ON APPEALS OF ENVIRONMENTAL THRESHOLD DETERMINATION
AND CONDITIONAL USE PERMIT.**

SUBJECT: Department of Development and Environmental Services File No. **L96AC015**

VASHON CONGREGATION OF JEHOVAH'S WITNESSES

Appeals of
Threshold Determination of Non-Significance
and Conditional Use Permit

Location: Southeast corner of SW 198th Street and Beall Road SW

Applicant: Vashon Congregation of Jehovah's Witnesses
c/o John Mullis
26410 Wax Orchard Road SW
Vashon, WA 98070

Appellant: Richard Rotruck - Representing neighboring property owners
19724 Beall Road SW
Vashon, WA 98070

County
Representatives: Sherie Sabour and Angelica Velasquez
Department of Development and Environmental Services
900 Oakesdale Avenue SW
Renton, WA 98055-1219

SUMMARY OF RECOMMENDATIONS AND DECISION:

SEPA Appeal:

Division's Preliminary:	Deny appeal
Division's Final:	Deny appeal
Examiner:	Deny appeal

Conditional Use Permit Appeal:

Division's Preliminary:	Deny appeal
Division's Final:	Deny appeal
Examiner:	Denied, subject to modification of conditions

PRELIMINARY MATTERS:

Notice of appeal received by Examiner: March 7, 1997

Statement of appeal received by Examiner: March 7, 1997

EXAMINER PROCEEDINGS:

Pre-hearing Conference: April 9, 1997

Hearing Opened: May 13, 1997

Hearing Closed: May 28, 1997

On May 13, 1997, the hearing was continued, with the agreement of the parties, to enable the parties to obtain and present additional evidence concerning drainage, wetlands, and impact of the proposed development on groundwater.

Participants at the proceedings and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the Office of the King County Hearing Examiner.

ISSUES ADDRESSED:

- Compatibility with rural character
- Compliance with Comprehensive Plan policies
- Traffic
- Light and glare
- Landscape screening
- Surface water drainage
- Groundwater recharge
- Wildlife impacts
- Wetlands
- Streams
- Privacy
- Noise impacts

FINDINGS, CONCLUSIONS & DECISIONS: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. General Information:

Applicant: Vashon Congregation of Jehovah's Witnesses
Representative: John Mullis
26410 Wax Orchard Road SW
Vashon, WA 98070

Appellant: Richard Rotruck, et al.
Representative: Richard Rotruck
19724 Beall Road SW
Vashon, WA 98070

2. The Vashon Congregation of Jehovah's Witnesses proposes to construct a 4,216-square-foot church, parking, a caretaker's residence and detached garage on a 4.38-acre site on the south side of SW 198th Street, at 91st Avenue SW (Beall Road), Vashon Island. The proposal requires a conditional use permit to be issued by King County.

On February 4, 1997, the King County Department of Development and Environmental Services issued a Determination of Environmental Non-Significance for the proposed action, and a decision granting the Conditional Use Permit. The permit is embodied in the CUP Report and Decision.

3. On February 18, 1997, neighbors in the vicinity of the subject property, represented by Richard Rotruck, filed a Notice of Appeal of the granting of the conditional use permit. On February 25, 1997, a Statement of Appeal was filed, identifying the granting of the conditional use permit and the issuance of the Determination of Environmental Non-Significance as the decisions being appealed. The Statement of Appeal constituted a timely Notice of Appeal of the Determination of Environmental Non-Significance. Ordinance No. 12196, Section 27.

At the pre-hearing conference, the following subjects were established as the issues to be considered in these appeals:

- a. Impact on the rural character of the area, and compatibility of the proposal with existing development;
 - b. Impacts of additional traffic associated with the proposed development, including traffic volume, noise, and safety;
 - c. Impact of noise generated by the proposal; compatibility of such noise with the existing residential and rural development in the vicinity;
 - d. Impact and compatibility of light generated by the proposed development, and light from automobile headlights of vehicles travelling to and from the property;
 - e. Effect on the privacy of nearby residents;
 - f. Impacts on groundwater quantity and quality, including the cumulative effects of this and other development within the watershed;
 - g. Impacts on surface water and wetlands;
 - h. Impact on plants and animals;
 - i. Adequacy of the proposed landscaping to assure compatibility of the proposed use with adjacent and nearby residential uses;
 - j. Aesthetic and light and glare impacts of signage for the proposed development; and
 - k. Conflict with King County Comprehensive Plan Policy R-211.
4. Findings "A" and "B" (describing the proposal and existing conditions), made by the Responsible Official in the February 4, 1997 Conditional Use Report and Decision, are found

5. The King County Comprehensive Plan provides that the maintenance of rural community character is a valued part of King County's diversity. (Page 59.) Boundaries of the rural area were designated by the Plan, and include the subject property. Plan Policy R-209, as amended December 18, 1995, allows churches to locate within those rural area zones which allow residential development at a density up to one dwelling unit per 10 acres (RA-10). Location of a church in these zones is subject to issuance of a conditional use permit, which requires design in a manner which is compatible with the character and appearance of existing or proposed development in the vicinity of the property.

The building proposed by this application is 4,216 square feet, one story, with a 20-foot high pitched roof. Residential type siding will be used. This size and design is reasonably compatible with residential development permitted in the RA-10 zone.

The parking area proposed will be somewhat lower in elevation than SW 198th Street. It will be south of the church, which will largely block the view of the parking area from the street. The addition of landscaping along the north and east property lines, in accordance with the applicant's revised plan (Exhibit No. 66), will result in the parking being effectively screened from the view of existing adjacent residences to the east and from SW 198th Street. The proposed placement of the church building and parking lot is as unobtrusive as feasible on the subject property. Furthermore, the parking lot will be substantially landscaped and will be in use only during limited hours.

6. The proposed development will bring additional traffic to SW 198th Street and 91st Avenue SW (Beall Road). The maximum number of additional daily vehicle trips will be approximately 100 (50 round trips to and from the site), three days per week. The bulk of these trips will occur during brief time periods. The affected roads currently have little traffic, which will cause the added trips to be very noticeable and disturbing to area residents. Nonetheless, the impact of the additional traffic will be minimal, due to the low number and brief time periods involved.
7. The primary noise from the proposed development will be from vehicles travelling to and from the site. Other noise generation will be from the voices of persons on the site attending church functions, car doors closing, and noise generated by outside heating, ventilation, and air conditioning (HVAC) units. The noises of people arriving and departing the site will occur for brief time periods. HVAC units will be located and screened to minimize their noise impact.
8. The proposed development will generate light, including parking lot and sign lighting, and headlights of vehicles travelling to and from the property. KCC 21A.12.220.G. requires that building illumination and lighted signs be designed so that no direct rays of light are projected into neighboring residences or onto any street right-of-way. Building plans must comply with this requirement.

Undisputed testimony by the appellants indicates the importance of darkness as an element of rural character. The ambient darkness of the area can be protected by restricting illumination of the church, parking area and sign during periods when the church is not in use. Site security lighting can be provided through the use of motion actuated sensors.

9. Residents in the vicinity of the property may be disturbed by seeing, or being seen by, persons

travelling to and from the church. This disturbance is a personal consideration which affected persons can address by modifications to their own landscaping or activities. No provision of County Code or Plan Policy restricts the use of County roads by others in order to protect the privacy of persons and residences adjacent to the roads.

10. The proposed development will be served by an on-site septic system, which has received preliminary approval from the Seattle-King County Department of Public Health. The site is underlain by impermeable soils at relatively shallow depths, requiring the use of an enhanced system. The till operates to protect any deep aquifer which may underlie this site from pollutants which may leech from the septic system drainfield.
11. The surface water which will drain from impervious surfaces on the site will be collected, detained, and released through a system which exceeds the detention volume requirements of the King County Surface Water Drainage Manual. The system is intended to reduce downstream erosion which would otherwise result from an increased rate of surface water discharge from the site. Biofiltration of surface water will be provided in accordance with the requirements of the Surface Water Drainage Manual. There is no substantial evidence indicating any likelihood of adverse impact resulting from the proposed development on any on-site or nearby streams or wetlands, or any violation of the sensitive areas code. However, it appears that the area proposed for development of the drainage facilities provides some storage (detention) for off-site flows which enter the property currently. Drainage plans must account for any loss of current storage in order to assure that flows leaving the site are not increased during storm events, which would increase downstream erosion.
12. There was no evidence presented of significant adverse impact resulting from the proposed development on plants or animals on the site. Elimination of vegetation from the area to be developed, and reduction of habitat area, are natural consequences of any permitted development. The site currently is primarily mowed grassland, with no unusual or significant vegetation or habitat.
13. The landscaping proposed by the applicant in exhibit no. 66 would exceed the current code requirements. This plan includes Type 1 landscaping (visual screening) along the SW 198th Street frontage. Visual screening would render the view of the site less obtrusive to persons using that street and to residents on the north side of SW 198th Street.
14. No specific sign has been proposed by the applicant, although a sign is intended to identify the property. Sign requirements are established by the King County Code. It is not clear whether a sign proposed as part of a conditional use should be reviewed as part of the use which it supports. Although the appellant has not offered any evidence that would indicate that a sign would have any significant impact, or be incompatible with the area, the appellant has not had any reasonable opportunity to address the compatibility or impacts of a sign in the absence of a specific proposal.
15. The proposed development is inconsistent with that portion of King County Comprehensive Plan Policy R-211 which encourages churches to locate in rural cities or unincorporated rural towns. The subject property is, however, close to a rural town, requiring only a short distance of travel from the Vashon Town Center via a neighborhood collector (Cemetery Road), and 660 feet by local access street. It is adjacent to a large school campus and its drainage facility. The proposal will not affect the demand for utility services to serve the area, nor is the proposed use likely to stimulate additional development in the vicinity.

16. The Subject property is located within an area identified by the Vashon Community Plan as a high groundwater recharge area. However, the proposal is well within the provisions of the Plan which limits commercial development in high groundwater recharge areas. The requirement that a minimum 40% of the site be maintained in natural or planted landscaping is exceeded by the proposal, which will cover only 17% of the site with impervious surfaces.

CONCLUSIONS:

1. The appellants have not established by a preponderance of the evidence that the proposed development would have a probable significant adverse impact upon the environment.
2. In order to maintain compatibility with the rural character of the area, the lighting of the proposed development should be subject to a restriction that lighting emanating from non-residential use of the property, except for security purposes, should be prohibited when the property is not in use. Exterior security lighting of the church building and parking area should be motion activated only.
3. The applicant's offers to provide enhanced landscaping (Type 1, Visual Screening) along the property frontage and north portion of the east property line, and to locate and screen HVAC equipment to minimize noise and visual impact, would enhance the compatibility of the proposed development with the rural area and nearby development.
4. HVAC equipment should be relocated to ground level, screened by landscaping, and/or fenced to reduce off-site visual and noise impacts.
5. Surface water detention computations should account for any loss of existing on-site storage capacity which may be lost through the construction of storm water facilities in the southeastern and eastern portions of the property, and should provide the over-detention proposed by the applicant to protect against downstream erosion.
6. Any sign proposed for church use of the property should be consistent with the restrictions of the KC Code for non-residential signs in the RA zone, the restrictions on lighting contained herein, and should be subject to review by DDES for compatibility and other applicable considerations pursuant to KCC 21A.44.040.
7. The Conditional Use Permit, as issued by the Responsible Official on February 4, 1997, should be affirmed with modifications to reflect the foregoing conclusions. So modified, the proposal is consistent with the criteria for a conditional use permit set forth in King County Code 21A.44.040.

DECISION:

The appeal by Richard Rotruck, et al., of the Environmental Threshold Determination of Non-Significance, issued on February 4, 1997, is denied.

The appeal of the conditional use permit for the development of the subject property, issued February 4, 1997, is denied, subject to the following additional conditions of approval:

6. Lighting emanating from the church, parking area, and any sign, except for security purposes,

shall be prohibited when the property is not in use. Exterior security lighting of the church building, parking area, and sign (if any) shall be motion-activated only.

7. A revised landscape plan, generally consistent with Exhibit No. 66 proposed by the applicant at the public hearing, to include Type 1 (Visual Screening) landscaping along the north property line and the northerly portion of the east property line, shall be implemented, subject to any additional requirements of the landscape code.
8. HVAC equipment shall be relocated to ground level, screened by landscaping, and/or fenced to reduce off-site visual and noise impacts.
9.
 - A. Review of the surface water detention and discharge system shall consider the loss, if any, of existing on-site detention of upstream flows which may be provided by natural depressions occurring in the area to be utilized for the detention pond and bioswale.
 - B. The over-detention of run-off from impervious surfaces on the site, as currently proposed by the applicant, shall be required in the final drainage plans.
10. Any sign related to church use of the property shall be consistent with the restrictions of the King County Code for non-residential signs in the RA zone; shall be lit only during, including immediately before and after, church use of the property and for security purposes, if desired, by motion-activated switch; and shall be subject to review by DDES for compatibility and other applicable considerations of KCC 21A.44.040.

ORDERED this 12th day of June, 1997.

James N. O'Connor
King County Hearing Examiner

TRANSMITTED this 12th day of June, 1997, to the following parties and interested persons:

Melange Ashley-Cole
19630 Beall Road SW
Vashon Island, WA 98070

Nici Dawber
8915 SW 198th
Vashon, WA 98070

Mike Lee
1904 Third Avenue
Seattle, WA 98111

Monte Bridges
Vashon Island School Dist. #402
20414 Vashon Highway SW
Vashon, WA 98070

Luay Joudeh, P.E.
D.R. Strong Consulting Engineers
10604 NE 38th Place, #101
Kirkland, WA 98033

Phyllis McMullen
17305 96th Place SW
Vashon, WA 98070

John Collins
8908 SW Cemetery Road
Vashon, WA 98070

Tom Kelly
12315 - 171st Place SE
Renton, WA 98059

John Comis
John Comis Associates
PO Box 73934
Puyallup, WA 98373

Mark Lahfdany
8415 Steilacoom Blvd SW
Lakewood, WA 98498

Mary Beth Moser
19724 Beall Road SW
Vashon Island, WA 98070

Anne Seethoff
Ellisport Engineering
20501 - 81st Avenue SW
Vashon, WA 98070

John Mullis
26410 Wax Orchard Road SW
Vashon, WA 98070

George Taitano
10520 SW 140th Street
Vashon, WA 98070

Richard D. Olson, P.E.
D.R.Strong Consulting Engineers
10604 NE 38th Place, #101
Kirkland, WA 98033

Herschel Winters
PO Box 842
Vashon, WA 98070

Jeff Petersen
10034 Southeast 190th
Renton, WA 98055

Greg Borba, DDES/LUSD
Marilyn Cox, DDES/LUSD
Tracy Daniels, DDES/LUSD
Wilsey Hamilton, DDES

Larry Raff
8905 SW 198th Street
Vashon, WA 98070

Jon Hansen, DDES/LUSD
Lisa Lee, DDES/LUSD
Lisa Pringle, DDES/LUSD
Sherie Sabour, DDES/LUSD

Richard Rotruck
19724 Beall Road SW
Vashon, WA 98070

Gary Samek, KCDOT
Angelica Velasquez, DDES/LUSD

Mrs. Phillip Schwarz
9130 SW Cemetery Road
Vashon, WA 98070

Pursuant to Chapter 20.24, King County Code, the King County Council has directed that the Examiner make the final decision on behalf of the County regarding these appeals. The Examiner's decision shall be final and conclusive unless within twenty (20) days from the date of the decision an aggrieved party or person applies for a writ of certiorari from the Superior Court in and for the County of King, State of Washington, for the purpose of review of the decision.

MINUTES OF THE MAY 13 AND MAY 28, 1997 PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L96AC015 - VASHON CONGREGATION OF JEHOVAH'S WITNESS, CUP AND SEPA COMBINED APPEALS:

James N. O'Connor was the Hearing Examiner in this matter. Participating in the hearing were Sherie Sabour, Angelica Velasquez, Gary Samek, Jon Hansen, Wilsey Hamilton, Richard Rotruck, Mary Beth Moser, John Mullis, Mark Lahfdany, Jeff Petersen, Herschal Winters, John Comis, Richard D. Olson, Luay Joudeh, Mike Lee, and Anne Seethoff.

The following exhibits were offered and entered into the record:

Entered May 13, 1997:

- | | |
|---------------|---|
| Exhibit No. 1 | Department of Development and Environmental Services File No. L96AC015 (Conditional Use Permit) |
| Exhibit No. 2 | Department of Development and Environmental Services File No. L9700065 (SEPA) |
| Exhibit No. 3 | Department of Development and Environmental Services Preliminary Report to |

	the Examiner for the May 13, 1997 public hearing
Exhibit No. 4	Outline of appellant Rotruck's case
Exhibit No. 5	Matrix of appellant's issues
Exhibit No. 6	Appellant's outline of rural character issue
Exhibit No. 7	Map of vicinity of subject property
Exhibit No. 8	Chart showing neighborhood characteristics
Exhibit No. 9	Excerpt from Vashon Community Plan
Exhibit No. 10	Vashon Town Plan Area Zoning Map
Exhibit No. 11	Church Comparison Data Chart
Exhibit No. 12	Outline of appellant's traffic issue
Exhibit No. 13	Petition of neighbors in opposition to heavier traffic
Exhibit No. 14	Church locations on Vashon Island, with map
Exhibit No. 15	Photos of neighborhood roads (Beall Road)
Exhibit No. 16	Survey #3 of Vashon residents using Beall Road and SW 198th Street
Exhibit No. 17	Two photos of SW 198th Street
Exhibit No. 18A	Traffic Count Data for Beall Road, 1/8/97
Exhibit No. 18B	Traffic Count Data for SW 198th Street, 1/8/97
Exhibit No. 18C	Spreadsheet for data in Exhibit No. 18A
Exhibit No. 18D	Spreadsheet for data in Exhibit No. 18B
Exhibit No. 18E	Traffic Impact Analysis
Exhibit No. 19	Excerpt from King County Road Standards
Exhibit No. 20	Overflow Parking Analysis
Exhibit No. 21	Newspaper article, Vashon Beachcomber, 2/12/97, re: new church building
Exhibit No. 22	Survey #2 re: road improvements
Exhibit No. 23	Outline of appellant's noise issue
Exhibit No. 24A	Page 6 of mechanical plans (roof)
Exhibit No. 24B	Page 9 of mechanical plans (roof)
Exhibit No. 25	Excerpt from septic system design, re: alarm
Exhibit No. 26	Outline of appellant's light issue
Exhibit No. 27	Newspaper article, Vashon Beachcomber, 3/26/97, re: light pollution
Exhibit No. 28	Site plan of church site
Exhibit No. 29	Outline of appellant's signage issue
Exhibit No. 30	Outline of appellant's privacy issue
Exhibit No. 31	Outline of appellant's landscaping issue
Exhibit No. 32	Outline of appellant's groundwater issue
Exhibit No. 33	U.S. EPA Sole Source Aquifer Designation of Vashon-Maury Island Aquifer System
Exhibit No. 34	Map of Vashon Island Watershed
Exhibit No. 35	Zoning Code Conversion Phase Two
Exhibit No. 36	Chart of Development Density Comparisons
Exhibit No. 37A	SCS Soil Survey Map
Exhibit No. 37B	Letter from Sea-King County Dept. Health, dated 6/8/97
Exhibit No. 38	Log of neighborhood power outages
Exhibit No. 39	Excerpt from subject site's landscape plan
Exhibit No. 40A	Septic system calculations by D.R. Strong
Exhibit No. 40B	Septic system notes
Exhibit No. 41	Outline of surface water issue
Exhibit No. 42	Photo map of site, with six pages of photos
Exhibit No. 43	Excerpt from Wetland Determination for Vashon School District Project
Exhibit No. 44	Level One Drainage Analysis for subject proposal

Exhibit No. 45	Outline of appellant's plant and animal issue
Exhibit No. 46	Newspaper article, <u>Seattle Times</u> , 2/9/97, re: mutant tree frogs
Exhibit No. 47	Outline of appellant's Policy R-211 issue
Exhibit No. 48	Excerpt from Vashon Town Plan, with map, dated 6/20/96
Exhibit No. 49	Real Estate listing for Vashon Island property
Exhibit No. 50	Elements of Rural Character
Exhibit No. 51	Appellant's appeal conclusions
Exhibit No. 52	Letter to Examiner from Nici Dawber, dated 5/12/97

Entered May 28, 1997:

Exhibit No. 53	Memo to Sherie Sabour from Jon Hansen, dated May 27, 1997
Exhibit No. 54	Letter dated May 26, 1997 from Ellisport Engineering
Exhibit No. 55	Letter dated May 23, 1997 from John Comis Associates
Exhibit No. 56	Storm Drainage and On-Site Septic Design Report by D.R. Strong Consulting Engineers
Exhibit No. 57	Copy of D.R. Strong Septic Design System Plans, approved by King County Health Dept. March 1997
Exhibit No. 58	King County Ordinance No. 12374
Exhibit No. 59	Graph of sizes of Vashon Island churches
Exhibit No. 60	SCS Soil Survey Map of site
Exhibit No. 61	Water Usage by current Vashon Jehovah's Witnesses church
Exhibit No. 62	Graph of April 1997 weather for Seattle vicinity
Exhibit No. 63	King County Wildlife Habitat Value Map
Exhibit No. 64	Policies R-206 and R-212
Exhibit No. 65	Site plans dated September 1993 & September 1996
Exhibit No. 66	Applicant's proposed landscaping modification
Exhibit No. 67	Appellant's correspondence and references
Exhibit No. 68	Selected Vashon Arterial Map, 1991
Exhibit No. 69	Not admitted -- Data on congregation maximum occupancy for Vashon churches
Exhibit No. 70	Graphic of Traffic Volumes
Exhibit No. 71	Appellant's detailed outline of testimony